

Express Mail No. EV 797 296 543 US

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application of: WARD et al.

Confirmation No.: 8302

Application No.: 09/661,271

Group Art Unit: 3625

Filed: September 13, 2000

Examiner: Jeffrey A. Smith

For: SYSTEM AND METHOD FOR  
ORIGINATING LOANS

Attorney Docket No.: 061363-0003

**DECLARATION UNDER 37 CFR 1.132**

I, Francis E. Morris, declare and state that:

1. I was a partner at the law firm Pennie & Edmonds, Avenue of the Americas, New York, New York in the year 2000.
2. In early 2000 I was contacted concerning my availability to prosecute a patent application on behalf of Precept, LLC.
3. In a Declaration dated March 10, 2004 I provided excerpts of invoices 538610 of June 30, 2000 and 538611 of September 29, 2000 relating to the preparation of the present application. The work reported in these invoices was performed within the United States.
4. On February 3, 2000 I was sent a package of materials under cover of a letter from Joseph Heil attached hereto as Exhibit A. These materials included the results of a patent search (item 9), an Underwriting and Auction Agreement (item 5), a Registered Lender Agreement (item 4), a set of Auction Rules (item 3) and a Market Maker Agreement (item 6).

The Auction Rules is a multi-page document detailing the rules under which the auction would be conducted.

The Registered Lender Agreement is a multi-page document referencing the Auction Rules and detailing the legal relationship between Precept Corporation and a lender

enumerating the services to be provided by Precept in originating loans, the fees it would charge, and other details.

The Underwriting and Auction Agreement is a multi-page agreement detailing the legal relationship between Precept Corporation and a borrower enumerating the services to be provided by Precept in originating loans, the fees it would charge, and other details.

The Market Maker and Services Agreement is a multi-page document detailing the legal relationship between Precept Corporation and a market maker.

5. Attached hereto as Exhibit B is a copy of invoice 503081 dated January 31, 2000 from the law firm Dechert Price & Rhoads addressed to Joseph B. Heil for Patent Advice. Entries on December 15, 1999, December 21, 1999 and December 22, 1999 relate to a prior art patent search.

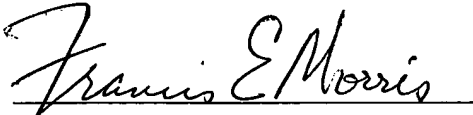
6. Attached hereto as Exhibit C is a portion of invoice 503084 dated January 31, 2000 from Dechert Price & Rhoads addressed to Joseph B. Heil for Loan Program Documents. Entries from December 9, 1999 to December 27, 1999 include edit manual, edit underwriting agreement, draft market maker agreement, review auction rules, review and analysis of market maker issues, conferences with J. Heil, revise underwriting and auction agreement pursuant to J. Heil's request, etc.

7. Attached hereto as Exhibit D is a portion of invoice 506071 dated February 29, 2000 from Dechert Price & Rhoads addressed to Joseph B. Heil for Real Estate Financing. Entries on pages 11 and 12 for January 4, 2000, January 5, 2000, January 6, 2000 and January 11, 2000 by WCS (W. Stefko), on page 5 for January 17, 2000 by ED (E. DeTrizio) and on page 4 for January 31, 2000 by JLD (J. Drake) relate to the preparation of the Market Maker Agreement. Entries on page 15 for January 7, 2000 by LBG (L. Genden), on pages 10 and 11 for January 13, 2000, January 18, 2000, January 19, 2000, January 21,

2000, January 23, 2000, January 27, 2000, and January 28, 2000 by MHB (M. Brown) relate to the preparation of the Underwriting Manual.

I declare further that all of the statements herein of my own knowledge are true; and all statements made on knowledge and belief are believed true, and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the present application and any patent issuing thereon.

Date: October 11, 2005

  
Francis E. Morris

February 3, 2000



Frank Morris  
Pennie & Edmonds  
1155 Avenue of the Americas  
New York, NY 10036

Dear Frank,

Enclosed please find the following:

- 1) Precept's Company Overview;
- 2) Precept's Financial Model;
- 3) Precept's Auction Rules;
- 4) Precept's Registered Lender Agreement (this is the Agreement that a Lender would sign to receive its password and have the right to bid on our system);
- 5) Precept's Underwriting and Auction Agreement (this is the Agreement that each Borrower would sign to have its loan underwritten and auctioned);
- 6) Precept's Market Maker Agreement;
- 7) The first Chapter of our Underwriting Manual which explains our process;
- 8) Our flip marketing presentation book; and
- 9) Some patent information from Dechert.

Give me a call and I will walk you through the relevance of each of these.

Best regards,



Joseph Heil

PLEASE INCLUDE REFERENCE NO.  
AND REMIT TO:

**DECHERT PRICE & RHOADS**

P.O. BOX 8500-50480  
PHILADELPHIA, PA 19178

DATE January 31, 2000

INVOICE NO. 503081

MATTER NO. 303652

FED. ID. 23-1425587

2995



**DECHERT PRICE & RHOADS**

4000 BELL ATLANTIC TOWER

1717 ARCH STREET

PHILADELPHIA, PA 19103-2793

**COMMERCIAL MORTGAGE TRADING FORUM**

465 California Street

San Francisco, CA 94104

Attn: Joseph B. Heil, Esquire

RE: Patent Advice

FOR PROFESSIONAL SERVICES RENDERED through December 31, 1999:

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
12/15/99	KWS	1.40	Drafting letter requesting prior art search; conference with Robert Ballarini regarding search for competitors' patents.
12/21/99	KWS	0.30	Follow-up on patentability question.
12/22/99	KWS	0.20	Telephone conference with Ellen Reimer regarding corporate name change and stock issuance.
12/15/99	RJB	3.70	PRECEPT - Conducted patent search for competitor's patents as requested by Kara Swanson.
12/21/99	RJB	0.30	Conducted patent search as requested by K. Swanson.
12/22/99	RJB	0.50	Conducted patent search as requested by K. Swanson.

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<b>TOTAL HOURS:</b>	<b>6.40</b>	<b>AMOUNT:</b>	<b>\$938.00</b>
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**DISBURSEMENTS:**

Duplication Charges	21.45
Long Distance Charges-bo	0.60
Federal Express Charges	<u>11.50</u>

<b>TOTAL DISBURSEMENTS:</b>	<u><b>\$33.55</b></u>
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<b>TOTAL AMOUNT DUE:</b>	<u><u><b>\$971.55</b></u></u>
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**TIME AND FEE SUMMARY**

<b><u>TIMEKEEPER</u></b>		<b><u>RATE</u></b>	<b><u>HOURS</u></b>	<b><u>FEES</u></b>
K. Swanson	Associate		<b>REDACTED</b>	
R. Ballarini	Legal Assistant			

**TOTALS**

PLEASE INCLUDE REFERENCE NO.  
AND REMIT TO:

**DECHERT PRICE & RHOADS**  
P.O. BOX 8500-50480  
PHILADELPHIA, PA 19178

DATE January 31, 2000

INVOICE NO. 503084

MATTER NO. 302555

FED. ID. 23-1425587

7pgs

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**DECHERT PRICE & RHOADS**

4000 BELL ATLANTIC TOWER

1717 ARCH STREET

PHILADELPHIA, PA 19103-2793

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**COMMERCIAL MORTGAGE TRADING FORUM**

465 California Street  
San Francisco, CA 94104  
Attn: Joseph B. Heil, Esquire

RE: Loan Program Documents.

FOR PROFESSIONAL SERVICES RENDERED through December 31, 1999:

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
12/09/99	GME	1.00	Edit manual.
12/14/99	GME	2.10	Edit underwriting agreement.
12/15/99	GME	2.50	Edit documents.
12/16/99	GME	1.00	Edit manual.
12/17/99	ALC	0.10	Review language.
12/10/99	DWF	4.30	Conference call with Joe Heil, Bill Stefko and Lisa Genden; document review and revision; review comments and mark ups on multiple documents.
12/13/99	DWF	3.00	Draft market maker agreement; calls with J. Heil.
12/14/99	DWF	1.00	Review auction rules and agreements.
12/15/99	DWF	1.50	Calls; review various documents.

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
12/16/99	DWF	2.00	Work on market maker agreement; calls.
12/23/99	DWF	0.50	Calls; revise internet agreement.
12/27/99	DWF	2.00	Meetings with Tom Doran regarding patent; calls; review Greenwich NDA and prepare letter agreement.
12/06/99	JBF		<div><b>REDACTED</b></div>
12/08/99	JBF		
12/06/99	MHB		
12/07/99	MHB		
12/08/99	MHB		
12/09/99	MHB		
12/10/99	MHB		
12/15/99	MHB	4.70	Review and analysis of market maker issues; telephone conferences with Joe Heil; amend auction rules; discuss master agreements with Rob Grady.
12/17/99	MHB	1.40	Review and analysis of market maker issues; telephone conference with David Forti regarding same; meeting regarding master agreements for third party services.
12/20/99	MHB		<div><b>REDACTED</b></div>

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
12/15/99	WCS	5.40	Revised underwriting and auction agreement pursuant to JHeil's request; revised lender registration agreement pursuant to JHeil's e-mail; discussed changes to both agreements with DForti; multiple telephone conferences with JHeil to review page-by-page changes.

12/16/99	WCS		
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12/17/99	WCS		
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12/20/99	WCS		
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**REDACTED**

12/01/99	REG		
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12/15/99	REG		
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12/16/99	REG		
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12/17/99	REG		
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12/18/99	REG		
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PLEASE INCLUDE REFERENCE NO.  
AND REMIT TO:

**DECHERT PRICE & RHOADS**  
P.O. BOX 8500-50480  
PHILADELPHIA, PA 19178

19 pgs

DATE February 29, 2000

INVOICE NO. 506071

MATTER NO. 301671

FED. ID. 23-1425587

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**DECHERT PRICE & RHOADS**

4000 BELL ATLANTIC TOWER  
1717 ARCH STREET  
PHILADELPHIA, PA 19103-2793

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PRECEPT LLC  
465 California Street  
San Francisco, CA 94104  
Attn: Joseph B. Heil, Esquire

RE: Real Estate financing

FOR PROFESSIONAL SERVICES RENDERED through January 31, 2000:

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
01/10/00	JJG		
01/17/00	JJG		
01/07/00	TED		
01/11/00	TED		<b>REDACTED</b>
01/13/00	TED		
01/20/00	TED		
01/26/00	TED		

THE AMOUNT INCLUDED FOR COSTS INCLUDES ALL EXPENSES WHICH HAVE BEEN RECEIVED AND RECORDED THROUGH THE END OF THE MONTH PRECEDING THE DATE OF THIS STATEMENT. ANY ADDITIONAL EXPENSES RECEIVED AFTER THAT DATE WILL BE BILLED IN THE FUTURE.

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
01/05/00	JLD		
01/12/00	JLD		
01/13/00	JLD		
01/14/00	JLD		REDACTED
01/21/00	JLD		
01/26/00	JLD		
01/27/00	JLD		
01/28/00	JLD		
01/31/00	JLD	0.50	Analysis of issues related to Market Maker investments and related discussions.
01/10/00	ED		
01/11/00	ED		
			REDACTED
01/12/00	ED		

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
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01/13/00	ED		
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**REDACTED**

01/14/00	ED		
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01/17/00	ED	5.30	Review e-mails from JHeil; telephone call with DForti; review Market Maker agreement with Morgan, Lewis; review other related materials generally; revise term sheet; create open items checklist; telephone calls with CKarras.
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01/18/00	ED		
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01/19/00	ED		
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**REDACTED**

01/20/00	ED		
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<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
01/13/00	MHB	6.70	Edit Underwriting Document; review and analysis of documents pertaining to drafting of Underwriting document; multiple calls to client.
01/14/00	MHB		<b>REDACTED</b>
01/17/00	MHB		
01/18/00	MHB	10.50	Document amendments and drafting; telephone conferences with client regarding Underwriting Manual and Initial Due Diligence Package.
01/19/00	MHB	9.70	Draft portions of Underwriting Manual; amend Initial Due Diligence Package; amend other documents; telephone conferences with client.
01/20/00	MHB		<b>REDACTED</b>
01/21/00	MHB	6.70	Draft portions of the Underwriting Manual; review mortgage edits and make changes in master; edit documents; multiple telephone conferences with client.
01/23/00	MHB	4.70	Amend Underwriting Manual; draft introduction.
01/24/00	MHB		
			<b>REDACTED</b>
01/25/00	MHB		
01/26/00	MHB		

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
01/27/00	MHB	11.20	Telephone conference with Insurance Consultant; amend provisions of documents pertaining to insurance issues; amend Chapter 2 of Underwriting Manual; review and analysis of and edit Underwriting and Auction Agreement, Lender Registration Agreement, and part of Outside Counsel Procedures Guide; review and analysis of web page issues; telephone conferences with client.
01/28/00	MHB	7.40	Amend Lender Registration Agreement; amend Underwriting and Auction Agreement; amend Underwriting Manual.
01/31/00	MHB		<b>REDACTED</b>
01/04/00	WCS	5.20	Amended Market Maker Agreement pursuant to DForti's request; conference call with DForti, LGenden and MEscudero to JHeil at Precept; discussion with DForti, LGenden and MEscudero regarding document status.
01/05/00	WCS	4.10	Began preparation of General Market Maker Agreement pursuant to DForti's and JHeil's request; review of Morgan Stanley Dean Witter Market Maker Agreement pursuant to DForti's request; reviewed and implemented revisions to outside counsel procedure's manual pursuant to previous mark-up; conference call with JHeil.
01/06/00	WCS	3.90	Multiple telephone conferences with JHeil regarding facility provisions of Precept Market Maker Agreement; revised Market Maker Agreement pursuant to JHeil's comments; multiple discussions with CKarras regarding Market Maker Agreement; multiple revisions to Market Maker Agreement pursuant to CKarras' comments; revised unanimous written consent of Precept Board of Directors and Members pursuant to JHeil's request.

<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
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01/07/00	WCS		
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**REDACTED**

01/11/00	WCS	0.90	Multiple conversations with DForti regarding Market Maker and Lender Registration Agreement; multiple conversations with LGendan regarding formatting of Precept documentation; began review of edits to outside counsel procedures manual.
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01/12/00	WCS		
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01/13/00	WCS		<b>REDACTED</b>
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01/17/00	WCS		
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<u>DATE</u>	<u>ATTY</u>	<u>HOURS</u>	<u>DESCRIPTION</u>
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01/31/00	WCS		
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01/04/00	LBG		
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**REDACTED**

01/05/00	LBG		
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01/06/00	LBG		
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01/07/00	LBG	7.50	Telephone call to J. Wright regarding procedures for document formatting project; finalize draft of survey and insurance consultant MOUs; telephone call to M. Escudero regarding status; telephone call to M. Brown regarding Underwriting Manual; formatting of Underwriting Manual; meet with A. Cotharin regarding zoning MOU; telephone call to E. Kampwerth of Aon regarding insurance program; telephone call to B. Pitts of Smith-Roberts regarding survey coordination; email mous to B. Pitts and E. Kampwerth for review and comment.
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